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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/772,617   | 02/05/2004  | John P. Streich      | 0275Y-227DVD        | 5076             |
| 27572  | 7590        | 11/21/2006           | EXAMINER            |                  |
| HARNESS, DICKEY & PIERCE, P.L.C.<br>P.O. BOX 828<br>BLOOMFIELD HILLS, MI 48303 |             |                      | LUGO, CARLOS        |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3676                |                  |

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/772,617             | STREICH ET AL.      |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Carlos Lugo            | 3676                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 September 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 22-25,27,30-32,66,67 and 69-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 22-25,27,30-32,66,67 and 69-72 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on September 5, 2006.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 22,24,27,30,31,69,71 and 72 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to Gregory.

Regarding claims 69,71 and 72, Richardson discloses a latch comprising a body (30); a channel in the body for receiving a rail (11) and being defined by a base surface (32), two sidewalls (where 33 and 34 are pointing in Figure 3) extending from the base and two flanges (33a and 34a) extending from the sidewalls towards one another.

The latch further includes a first member (35) covered by a second member (33 and 34), wherein a portion of the first member (top portion of 35) extends through the second member providing an indicia member and the portion having a surface substantially flush with the second member.

However, Richardson fails to disclose that the base surface is arcuate, or that arcuate surface is arcuate in a lateral and longitudinal direction. Richardson illustrates that the base surface (32) has a flat shape.

Gregory teaches that it is well known in the art of latches to provide a latch (17) having a base surface that has a shape that complements the shape of the rail. At the instant, Gregory illustrates that the base surface shape is arcuate that complements the shape of the rail.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the base surface described by Richardson with an arcuate shape, as taught by Gregory, sine a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art.

As to the limitation that the first member is molded to the second member (claim 72), the term "molded" is considered as a method step in an article claim. Applicant is reminded that the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

As to claim 22, Richardson, as modified by Gregory, illustrates that the base surface is arcuate along both a longitudinal and lateral axis.

As to claim 24, Richardson illustrates that the indicia indicates a locked and unlocked position (unlock, Figure 3, fully locked, Figure 4).

As to claim 27, Richardson illustrates that the first member (35) is capable of provide rigidity to the latch.

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As to claim 30, Richardson, as modified by Gregory, illustrates that the body has an arcuate outer surface enables manipulation by a user.

As to claim 31, Richardson discloses that the second member (33 and 34) is a soft material providing a gripping surface.

4. **Claim 23 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to Gregory as applied to claim 69 above, and further in view of US Pat No 4,576,307 to Frydenberg.

Richardson, as modified by Gregory, fails to disclose that one of the flanges includes a cutout enhancing coupled with the rails.

Frydenberg teaches that it is well known in the art to have a latch (16 and 30) that comprises opposing flanges, wherein at least one flange includes a cutout enhancing that would be coupled with the rails (at the sides of 18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the latch member described by Richardson, as modified by Gregory, with a cutout at either flange, as taught by Frydenberg, in order to help in the insertion of the latch around the rails.

5. **Claim 25 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to Gregory as applied to claim 24 above, and further in view of US Pat No 6,981,299 to Savicki.

Richardson, as modified by Gregory, fails to disclose that the indicia also indicate direction.

Savicki teaches that it is well known in the art of latches to provide directional indicia in order to aid a user to move the latch (arrow in Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device described by Richardson, as modified by Gregory, with directional indicia, as taught by Savicki, in order to aid a user to move the latch.

6. **Claim 32 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to Gregory as applied to claim 69 above, and further in view of US Pat No 5,275,027 to Eklof et al (Eklof) and in view of US Pat No 4,153,178 to Weavers.

Richardson, as modified by Gregory, fails to disclose that the first member is formed from polypropylene and the second member formed from krayton.

Weavers teaches that it is well known in the art to use polypropylene as a material to make a member of a latch (Col. 3 Lines 10-15).

Eklof teaches that krayton is also a well-known material to make a member of a latch (Col. 4 Lines 29 and 30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use materials as polypropylene and krayton, as taught by Weavers and Eklof, to make or manufacture a latch as described by Richardson, as modified by Gregory, since the selection of a known material based upon its

suitability for the intended use is a design consideration within the level of skill of one skilled in the art.

7. **Claims 66,67 and 70 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to Gregory as applied to claim 24 above, and further in view of US Pat No 6,442,804 to Turvey et al (Turvey) and US Pat No 3,660,875 to Gutman.

Richardson, as modified by Gregory, fails to disclose that the second member includes indicia, wherein the first and second indicia have a distinctive color.

Turvey teaches that it is well known in the art of latches to provide a first and a second member (30 and 60) with corresponding indicia.

It would have been obvious to one having ordinary skill in the art of latches at the time the invention was made to provide the first and the second members described by Richardson, as modified by Gregory, with indicia, as taught by Turvey, in order to give the appropriate indication to the user.

As to the colors, Gutman teaches that it is well known in the art to use colors as indicators (Col. 3 Lines 1-6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device described by Richardson, as modified by Gregory, with colors, as taught by Gutman, in order to aid the user.

#### ***Response to Arguments***

8. Applicant's arguments filed on September 5, 2006 have been fully considered but they are not persuasive.

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The applicant argues that combining the teachings of Gregory into the device described by Richardson will eliminate the separator finger described by Richardson.

Richardson discloses a planar surface (32) that slides against a arcuate rail (11). Gregory teaches that it is well known in the art of latches to provide a latch (17) having a base surface that has a shape that complements the shape of the rail. At the instant, Gregory illustrates that the base surface shape is arcuate that complements the shape of the rail.

The fact that Richardson device further comprises another element, the separation finger, is irrelevant. At the instant, Richardson discloses the structure claimed.

Further, the claim language only requires an arcuate base surface (claims 69 and 72), and that is arcuate in a lateral and longitudinal direction (claim 71). There is no requirement that the base is clear of any other element. Therefore, the argument is not persuasive and the rejection is maintained.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 571-272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Carlos Lugo  
Patent Examiner Art Unit 3676

November 16, 2006.



BRIAN E. GLESSNER  
SUPERVISORY PATENT EXAMINER